

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RONALD WASHINGTON,

Defendant-Appellant.

UNPUBLISHED
December 8, 2000

No. 217113
Wayne Circuit Court
Criminal Division
LC No. 98-007615

Before: Bandstra, C.J., and Fitzgerald and D. B. Leiber*, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of aggravated stalking, MCL 750.411i; MSA 28.643(9), entered after a bench trial. We affirm.

Defendant was charged with aggravated stalking and felonious assault, MCL 750.82; MSA 28.277, domestic violence, 750.81(2); MSA 28.276, and assault and battery, MCL 750.81(1); MSA 28.276, in connection with incidents involving Lorenda Hill, his former girlfriend, Persila Hill, Lorenda Hill's mother, and Chinitra Reeder, Lorenda Hill's daughter. At trial, the evidence showed that after Lorenda Hill terminated her tumultuous relationship with defendant, he began telephoning her numerous times every day. During the calls he used abusive language, and threatened to appear at her home if she did not talk to him. Lorenda Hill testified that she felt threatened by defendant's actions, especially given his history of violent behavior towards her. On one occasion after assaulting Lorenda Hill, Persila Hill, and Chinitra Reeder at a store, defendant appeared outside Persila Hill's home. He screamed obscenities, and threatened to rape Chinitra Reeder.

The trial court found defendant guilty of aggravated stalking, two counts of assault and battery (one count being a lesser included offense of felonious assault), and domestic violence. On appeal, defendant challenges only the conviction of aggravated stalking.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a

* Circuit judge, sitting on the Court of Appeals by assignment.

reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the court was aware of the issues and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), *aff'd* by equal division 462 Mich 71; 611 NW2d 783 (2000).

Aggravated stalking occurs when a person engages in a willful pattern of conduct consisting of a series of two or more separate, noncontinuous acts involving repeated or continuing unconsented contact with another person that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, or harassed, and that actually makes the victim experience such feelings. A person is guilty of aggravated stalking if he either engaged in a willful pattern of conduct in violation of a court order of which he was aware, or made one or more credible threats against complainant, a member of complainant's family, or a member of complainant's household. MCL 750.411i(2)(b) and (c); MSA 28.643(9)(2)(b) and (c).

Defendant argues that the evidence was insufficient to support his conviction of aggravated stalking. We disagree and affirm defendant's conviction. The evidence showed that on numerous occasions defendant made repeated abusive, threatening telephone calls to Lorenda Hill. Lorenda Hill stated that she felt threatened by defendant's actions, especially given his history of violent behavior towards her. In addition, Persila Hill testified that defendant threatened to rape Chinitra Reeder, Lorenda Hill's daughter. The trial court was entitled to believe this testimony. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). This evidence established that defendant engaged in a series of two or more separate, noncontinuous acts involving repeated or unconsented contact with Lorenda Hill, that his actions caused her to feel threatened, and that he made a credible threat against a member of her family. That defendant might not have been aware of the existence of a personal protection order obtained by Lorenda Hill is of no moment in light of the fact that he made a credible threat against a member of her family. Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction. *Petrella, supra*.

We acknowledge that MCL 750.411i; MSA 28.643(9) was held to be unconstitutional in *Staley v Jones*, 2000 FDDLX (WD Mich, July 14, 2000). However, we are not bound by that decision, and defendant has not raised an argument regarding the constitutionality of the statute.

Affirmed.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Dennis B. Leiber